

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRIAN D. PIERCE,

Plaintiff,

v.

PA DEPT OF CORRECTIONS,

Defendant.

Civil Action No. 03-173 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on May 27, 2003, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 34], filed on February 24, 2006, recommended that Defendant's Motion for Summary Judgment [Doc. No. 23] be denied. The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendant. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 14<sup>th</sup> day of March, 2006;

IT IS HEREBY ORDERED that Defendant's Motion for Summary Judgment [Doc. No. 23] is DENIED.

The Report and Recommendation [Doc. No. 34] of Magistrate Judge Baxter, filed on February 24, 2006, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge